

## **Chapter 8.28**

### **NURSING HOMES**

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#### **8.28.010 Definitions.**

For the purposes of this chapter, the following words shall have the following meanings:

Care home shall mean a residence for aged or infirm persons providing personal care for residents who do not require skilled nursing care.

Home shall mean a nursing home or a care home as defined in this chapter.

Licensed practical nurse shall mean a person who holds a valid Nebraska license issued by the State Board of Nursing of the State of Nebraska to practice practical nursing and use the title "licensed practical nurse" and the abbreviation "L.P.N."

Nursing home shall mean a residence wherein skilled nursing care is provided as a primary and predominant function, the nursing staff having ability to carry out treatments prescribed by a physician, which involve skill beyond the personal care level.

Permittee shall mean the individual, partnership, corporation, or governmental subdivision legally responsible for the operation of a home in compliance with this chapter.

Personal care shall include, but is not restricted to, personal services: help in walking, getting in and out of bed, bathing, dressing, feeding, and giving medicines as ordered by a physician.

Registered nurse shall mean a person who holds a valid Nebraska license issued by the State Board of Nursing of the State of Nebraska to practice professional nursing and to use the title "registered nurse" and the abbreviation "R.N."

Skilled nursing care shall mean services provided by or under supervision of a registered professional nurse, or a licensed practical nurse. (Ord. 15560 §1; May 14, 1990: P.C. §5.42.010: Ord. 12791 §1; December 24, 1979: prior Ord. 7908 §1; October 29, 1962).

#### **8.28.020 Permit Required.**

It shall be unlawful for any person to establish, operate, or maintain a home without first having procured a permit so to do from the city.

It shall be unlawful for any person other than the operator of a nursing home for which a permit has been duly issued to use the word "nursing" in the title thereof or any advertising therefor. (Ord. 15560 §2; May 14, 1990: P.C. §5.42.020: Ord. 12791 §2; December 24, 1979: prior Ord. 7908 §2; October 29, 1962).

#### **8.28.030 Application for Permit; Contents.**

Application for a permit for a home shall be made to the city in writing, upon forms provided by the city, and shall be filed with the Health Director. The application shall contain the following information:

- (a) Name of applicant and residence.
- (b) Location of premises to be licensed.
- (c) Complete description of premises; type and construction, size of building and other facilities.
- (d) Name of operator or administrator.
- (e) Number of persons to be employed in home.
- (f) Maximum number of residents to be accommodated in such home. (Ord. 15560 §3; May 14, 1990: P.C. §5.42.030: Ord. 12791 §3; December 24, 1979: prior Ord. 7908 §3; October 29, 1962).

#### **8.28.040 Issuance of Permit; Conditions.**

Before issuing a permit to operate a home, the Health Director shall obtain from the Department of Building and Safety, Bureau of Fire Prevention, a written report that the premises upon which the home is to be located meets the standards of fire safety required by the city ordinances and as prescribed in Life Safety Code 101. (Ord. 15560 §4; May 14, 1990: P.C. §5.42.040: Ord. 13043 §1; November 17, 1980: prior Ord. 12791 §4; December 24, 1979: Ord. 12065 §4; August 8, 1977: Ord. 7908 §4; October 29, 1962).

#### **8.28.050 Permit Fee.**

If the city grants a permit to an applicant, the Health Director shall issue the permit upon payment by the applicant of an annual permit fee of twenty dollars, plus one dollar per patient capacity for each patient in excess of ten patients up to 100 patient capacity, which fee shall be placed in the Health Department Fund. (Ord. 15560 §5; May 14, 1990: P.C. §5.42.050: Ord. 8973 §1; April 4, 1966: prior Ord. 7908 §5; October 29, 1962).

#### **8.28.060 Renewal of Permit.**

Permits granted herein may be renewed within thirty days before the expiration date. Renewal application forms may be obtained from the Health Director. Annual permit fees shall accompany the renewal application. Renewals may be subject to the same conditions as provided in Section 8.28.040. (Ord. 15560 §6; May 14, 1990: P.C. §5.42.060: Ord. 12791 §5; December 24, 1979: prior Ord. 7908 §6; October 29, 1962).

#### **8.28.070 Term of Permit; Nontransferable.**

Permits issued under this chapter shall expire one year after date of issuance, unless sooner revoked. Permits shall be issued only for the premises and persons named in the application therefor, and no permit shall be transferable or assignable as to permittee or location. (Ord. 15560 §7; May 14, 1990: P.C. §5.42.070: Ord. 7908 §7; October 29, 1962).

#### **8.28.080 Permit to be Posted.**

It shall be unlawful for any person to operate and maintain any such home unless there be at all times posted in a conspicuous place at said home the permit issued therefor in accordance with the provisions of this chapter. (Ord. 15560 §8; May 14, 1990: P.C. §5.42.080: Ord. 7908 §8; October 29, 1962).

#### **8.28.090 Revocation, Suspension of Permit; Procedure.**

Whenever the Health Department or the Department of Building and Safety finds a violation of any provision of this chapter, such violation shall be referred to the Health Director who shall give notice of such alleged violation to the person to whom the permit was issued as hereinafter provided. Such notice shall:

- (a) Be in writing;
- (b) Include a statement of the reasons for its issuance;
- (c) Allow a reasonable time (but not less than thirty days) to perform remedial action which may eliminate the alleged violation;
- (d) Be served upon the permittee or an agent of the permittee, provided that such notice or order shall be deemed to have been properly served when a copy thereof has been sent by certified or registered mail to such permittee's last known address, or when served by any other method authorized by the laws of this state;
- (e) Contain an outline of remedial action which, if taken, will bring the home within the provisions of this chapter.

If the permittee has not brought the home into compliance within the time allowed in the notice, a second notice shall be served on the permittee, setting forth wherein such permittee has failed to comply with this chapter, or rules and regulations, and citing such permittee to appear before the City Council at a day and hour therein specified, not less than three days nor more than seven days after the personal service of said notice, and show cause, if any, why such permit should not be revoked or suspended. At the time and place mentioned in the second notice, the permittee shall have the right to appear in person, or by counsel, and to introduce such evidence as the permittee may desire. The City Council upon a full hearing, shall determine the revocation or suspension of such permit.

Whenever the Director of Building and Safety or the Health Director or their authorized representative finds that an emergency exists which requires immediate action to protect the public health, such director may, without notice or hearing, with the approval of the Mayor, issue an order reciting the existence of such an emergency and requiring that such action be taken as deemed necessary to meet the emergency, including the suspension of the permit. Notwithstanding any other provisions of this chapter, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the City Council shall be granted a hearing before the council within thirty days of the emergency order. (Ord. 15560 §9; May 14, 1990: P.C. §5.42.090: Ord. 12791 §6; December 24, 1979: prior Ord. 7908 §11; October 29, 1962).

**8.28.100        Penalty for Violations.**

Any person upon whom a duty is placed by the provisions of this chapter who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of this chapter, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed \$100.00. Each day that a violation of this chapter continues shall constitute a separate and distinct offense and shall be punishable as such. (Ord. 15560 §10; May 14, 1990: P.C. §5.42.450: Ord. 7908 §46; October 29, 1962).